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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,843	07/16/2001	Nobuhiko Kitamura	109506	2792

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EXAMINER	
BEKERMAN, MICHAEL	

ART UNIT	PAPER NUMBER
3622	

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/904,843	KITAMURA, NOBUHIKO	
	Examiner	Art Unit	
	Michael Bekerman	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/16/2001*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 12 teaches that the advertisement provider cost should increase as number of accesses increases, but in the following lines, claim 12 also teaches that the advertisement provider cost should decrease as number of accesses increases. For purposes of applying prior art, claim 12 will be read the same way as claim 3.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 2, 7-10, and 14-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Kusumoto (U.S. Patent No. 6,954,728).** Kusumoto teaches a system for transmitting advertisements over a network that includes all of the limitations recited in the above claims.

Regarding claims 1, 2, 7-10, and 14-17, Kusumoto teaches various ways of charging an advertiser for sending an advertisement over a network. These rates can very depending on such factors as "hours of the day during which avatars display the advertisement" and "number of times a particular advertisement was selected". (Column 9, Lines 16-24). Kusumoto also teaches a billing support system for calculating a fee to be sent to the advertisers based on the factors above (Column 9, Lines 25-29). Receiving of advertising data from the advertiser is inherent.

5. **Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Goodman (U.S. Patent No. 4,720,873).** Goodman teaches a system for transmitting advertisements over a network that includes all of the limitations recited in the above claim.

Regarding claim 13, Goodman teaches a network selling advertising space that provides an advertising rate table arranged according to a providing time for the advertisement (Column 12, Lines 17-20).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. **Claims 3, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto (U.S. Patent No. 6,954,728).**

Regarding claims 3, 12, and 18, Kusumoto teaches interactive media (examiner considers interactive media to include websites) being used over a network to display advertisements to users and an advertising rate being charged to an advertiser based on number of access to the data. Kusumoto doesn't specify a placing charge as being lowered as number of accesses increases. The law of supply and demand states that as supply increases (number of accesses), price will decrease (placing charge). Official notice is taken that the law of supply and demand is old and well known in the field of business. It would have been obvious to one having ordinary skill in the art at the time the invention was made to decrease the placing charge as the number of accesses to the data increases. This would give the web page provider incentive to drive more traffic to the website.

8. **Claims 4, 6, 11, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto (U.S. Patent No. 6,954,728) in view of Davis (U.S. Patent No. 6,269,361).**

Regarding claims 4, 6, 11, and 19, Kusumoto doesn't teach varying an advertisement rate according to location area/space within the interactive environment. Davis teaches advertisers as bidding higher amounts for better advertisement placement in a search results list on a web page (Column 9, Lines 42-45). It would

have been obvious to one having ordinary skill in the art at the time the invention was made for Kusumoto to charge more money to place an advertisement in a more desirable location. This would allow Kusumoto to make more money. Examiner considers area, space, and location to all refer to an advertisement's position in an interactive environment.

9. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto (U.S. Patent No. 6,954,728) in view of Davis (U.S. Patent No. 6,269,361), and further in view of Ryan (U.S. Patent No. 6,421,675).

Regarding claim 5, neither Kusumoto nor Davis teach varying an advertising space according to a number of accesses. Ryan teaches a search engine that moves more active links to a better position in the search ranking. It would have been obvious to one having ordinary skill in the art at the time the invention was made for Kusumoto to place an advertisement in a more desirable location as the number of accesses increases. This would allow users to have better access to popular information.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kusumoto (U.S. Patent No. 6,954,728) in view of Ryan (U.S. Patent No. 6,421,675).

Regarding claim 20, Kusumoto doesn't teach varying an advertising space according to a number of accesses. Ryan teaches a search engine that moves more active links to a better position in the search ranking. It would have been obvious to one having ordinary skill in the art at the time the invention was made for Kusumoto to place an advertisement in a more desirable location as the number of accesses increases. This would allow users to have better access to popular information.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to various ways of charging for Internet advertising:

U.S. Patent No. 6,442,529 to Krishan (charge per size)

U.S. Pub No. 2002/0002597 to Morrell (charge per location)

U.S. Patent No. 6,321,209 to Pasquali (charge per time)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MB

JEFFREY D. CARLSON
PRIMARY EXAMINER